

Republic of the Philippines
ENERGY REGULATORY COMMISSION
Pasig City

**IN THE MATTER OF THE
JOINT APPLICATION FOR
APPROVAL OF THE POWER
SUPPLY AGREEMENT (PSA)
BETWEEN EASTERN
SAMAR ELECTRIC
COOPERATIVE, INC.
(ESAMELCO) AND KEPCO
SPC POWER CORPORATION
(KSPC), WITH PRAYER FOR
CONFIDENTIAL
TREATMENT OF
INFORMATION AND
MOTION FOR
PROVISIONAL AUTHORITY**

ERC CASE NO. 2025-014 RC

**EASTERN SAMAR
ELECTRIC COOPERATIVE,
INC. (ESAMELCO) AND
KEPCO SPC POWER
CORPORATION (KSPC),
Applicants.**
X-----X

Promulgated:
February 27, 2025

ORDER

On 16 January 2025, Eastern Samar Electric Cooperative, Inc. (ESAMELCO) and KEPCO SPC Power Corporation (KSPC) filed a *Joint Application*, dated 11 December 2024, seeking the Commission’s approval of their Power Supply Agreement (PSA), with prayer for confidential treatment of information and motion for provisional authority.

The pertinent allegations of the *Joint Application* are hereunder quoted as follows:

THE APPLICANTS

1. Applicant EASTERN SAMAR ELECTRIC COOPERATIVE, INC. (“ESAMELCO”) is a non-stock, non-profit electric cooperative duly organized and existing under and by virtue

of Presidential Decree No. 269 (PD 269), as amended, and other laws of the Republic of the Philippines, with principal office at Brgy. Cabong, Borongan City, Eastern Samar, herein represented by its Board President, Reynaldo S. Gerna, and General Manager, Atty. Jose Michael Edwin S. Amancio, CPA evidenced by Board Resolution no. 76, Series of 2024 dated 31 August 2024. A copy of which is attached hereto as *Annex “KK”*.

2. Applicant KEPCO SPC Power Corporation (“KSPC”) is a corporation duly organized and existing under and by virtue of the laws of the Republic of the Philippines, with principal address at the 7th Floor, Cebu Holdings Center, Cebu Business Park, Cebu City, Philippines, herein represented by its Marketing Assistant Manager, Jude Francis Alphaeus Rendon, and its Market Analysis Assistant Manager, Rovel Tangkay, who has been authorized by its Board of Directors to file the Joint Application as evidenced by the Secretary’s Certificate dated February 9, 2023, attached hereto as *Annex “LL”*
3. Applicant KSPC owns and operates a 2x103 MW Circulating Fluidized Bed Combustor (CFBC) Boiler Coal-Fired base load power plant in the City of Naga, Cebu, which became operational in 2011.
4. Applicants may be served notices, orders, and other processes of the Honorable Commission through their respective counsels at their addresses indicated below.

NATURE OF THE APPLICATION

5. Section 23 of the Electric Power Industry Reform Act of 2001 (EPIRA) mandates that a distribution utility has the obligation to supply electricity in the least cost manner to its captive market, subject to collection of retail rate duly approved by this Honorable Commission. In relation to this, Section 45 (b) of the EPIRA expressly allows distribution utilities to enter into bilateral power supply contracts subject to the review of this Honorable Commission. The same are consistent with the State’s policy to ensure the quality, reliability, security, and affordability of the supply of electric power.
6. Pursuant to the above provision of law, herein joint applicants file this application for the approval of the Power Sales Agreement (“PSA”) between ESAMELCO and KSPC dated 13 September 2024. A copy of the PSA is attached hereto as *Annex “A”*.

STATEMENT OF FACTS

7. ESAMELCO is a duly franchised Distribution Utility engaged in the distribution of electricity with its franchise areas in the city of Borongan and the municipalities of Artech, Balangiga,

Balangkayan, Can-Avid, Dolores, General MacArthur, Giporlos, Guiuan, Hernani, Jipapad, Lawaan, Llorente, Maslog, Maydolong, Mercedes, Oras, Quinapondan, Salcedo, San Julian, San Policarpo, Sulat, and Taft, all in Eastern Samar. A copy of applicant ESAMELCO Articles of Incorporation is hereto attached as *Annex “B”* and By Laws as *Annex “B-1”*, and Certificate of Franchise and Certificate of Registration are hereto attached as *Annex “C and C-1”*.

8. The subject Energy and Capacity of the PSA is needed by ESAMELCO to meet the demand of the captive market in a least cost manner. A copy of its Supply and Demand Scenario as *Annex “G”*.
9. In addition, ESAMELCO’s Single Line Diagram is attached as *Annex “H”*, Performance Assessment is attached as *Annex “I”*, and the Potential Load Reduction Under RCOA is attached as *Annex “J”*.

BRIEF DISCUSSION OF THE COMPETITIVE SELECTION PROCESS

10. Through a Memorandum of Agreement (MOA), ten (10) Electric Cooperatives (EC) of Region 8, including ESAMELCO, agreed to conduct a joint procurement for their baseload requirement for the period of 2024 to 2033. The joint procurement was referred to as the Region 8 Joint Competitive Power Supply Procurement (R8 JCPSP). A copy of the Memorandum of Agreement is hereto attached as *Annex “MM”*.
11. Under the MOA, the Federation of Rural Electric Cooperatives in Region 8 Association, Inc. (FRECOR 8) was tasked to supervise and facilitate the transaction process, documentary requirements, and operational coordination among the member ECs of the R8 JCPSP.
12. A Joint Board of Directors (JBOD) was also created composed of General Managers and Board Presidents of the member ECs, which acts as the governing and policy-making body of the R8 JCPSP.
13. The JBOD passed Board Resolution No. 2023-11-002, Series of 2023 constituting the R8 Joint Bids and Awards Committee (JBAC) for the R8 JCPSP. A Joint Technical Working Group (JTWG) and a Joint Secretariat was also created. A copy of R8 JCPSP JBOD Board Resolution No. 2023-11-002, Series of 2023 dated 10 November 2023 is hereto attached as *Annex “NN”*.
14. The R8 JCPSP was for the procurement of an aggregate power supply of 190 MW, divided into two (2) lots: Lot 1 for 162 MW, which commences in 2024, and Lot 2 for 28 MW, which commences in 2027. The R8 JCPSP followed the policy and rules prescribed under Department of Energy (DOE)

Department Circular No. DC2023-06-0021,¹ and Energy Regulatory Commission (ERC) Resolution No. 16, Series of 2023.²

15. On 15 December 2023, R8 JCPSP Bidding Documents were submitted to NEA. NEA then issued a Certificate of Conformity No. NEA-RAO-COC-2024-02 dated 22 March 2024 when it found the R8 JCPSP's Bidding Documents to be consistent with the latest posted 2023-2032 Power Supply Procurement Plan of the member ECs of the R8 JCPSP. NEA likewise allowed the member ECs of the R8 JCPSP to proceed with the CSP.

Copies of the submitted Bidding Documents and the NEA Certificate of Conformity are hereto attached as *Annex "OO and series"* and *"PP"*, respectively.

16. Thereafter on 6 and 13 April 2024, the Invitation to Bid and Terms of Reference were published in the Manila Bulletin newspaper. Copies of the Affidavit of Publication and a complete copy of Manila Bulletin issues dated 6 and 13 April 2024 are hereto attached as *Annex "QQ"*.
17. There was likewise a local publication under the Leyte Samar Daily Express and the EV Mail. Invitations to power suppliers were also sent through electronic mail and postings were made in the DOE CSP Portal and respective EC websites.
18. On 12 April 2024, Invitations to CSP Observers were sent to attend the Pre-Bid Conference, including NEA, DOE, ERC, consumer representatives, community representatives, interested civil society organizations and consumers, and regional development council for Eastern Visayas.
19. On 23 April 2024, the JBAC conducted its Pre-bid Conference 1. During the Pre-bid Conference 1, the comments and questions submitted by the bidders were reviewed and discussed.
20. On 18 May 2024, Supplemental Bid Bulletin Nos. 03 to 05 were issued and were posted on the DOE CSP Portal. They referred to amendments to the Terms of Reference, amendments to instruction to bidders, and amendments to the draft power supply agreement based on the comments and clarifications from the bidders of Pre-Bid Conference 1.
21. On 22 May 2024, the JBAC conducted the Pre-Bid Conference 2 to provide another opportunity for the bidders to seek clarification on the Bidding Documents and revisions made therein. CSP Observers were invited again.

¹ Prescribing the Policy for the Mandatory Conduct of the Competitive Selection Process by the Distribution Utilities for the Procurement of Power Supply for their Captive Market.

² Implementing Guidelines for the Procurement, Execution, and Evaluation of Power Supply Agreements Entered Into By Distribution Utilities for the Supply of Electricity to their Captive Market ("2023 CSP Guidelines").

- 22. On 08 June 2024, the JBAC issued the Final Instructions to Bidders, Final Terms of Reference, Supplemental Bid Bulletin Nos. 06 and 07 and other documents as requested by bidders in preparation for the submission and opening of bids. Invitations to CSP Observers were sent to attend the submission and opening of bids on 25 to 26 June 2024.
- 23. On 25 June 2024, bidders submitted their respective bids for Lot 1 and Lot 2. The bids were opened on 25 June 2024 for Lot 1, and on 26 June 2024 for Lot 2 in the presence of JBAC, participating bidders, CSP Observers and an Independent Auditor.
- 24. On 1 to 3 July 2024, the JBAC conducted a post-qualification evaluation of the lowest calculated bids for Lot 1 and Lot 2.
- 25. On 3 July 2024, the JBAC issued Resolution No. 02, Series of 2024, recommending to the JBOD to award the power supply agreements to the following bidders for Lot 1 for the period of supply of 2024-2033:

Bidder	Capacity (Lot 1)
Therma Luzon Inc.	81 MW
Sual Power, Inc.	50 MW
KEPCO SPC Power Corp	31 MW

- 26. Further, the JBAC issued Resolution No. 03, Series of 2024, recommending to the JBOD to award the capacity of 28 MW for Lot 2 for the period of supply of 2027-2033 to TLI as the bidder having the lowest calculated responsive bid.
- 27. Consequently, on 3 July 2024, JBOD approved JBAC’s Recommendation to award the Power Supply Agreements to the bidders with the lowest calculated responsive bids for Lot 1 and Lot 2 through JBOD Resolution No. 2024-07-001 and 2024-007-002, respectively.
- 28. After its receipt of NEA’s Notice to Issue Award dated 13 August 2024 last 14 August 2024, on 19 August 2024, the JBAC issued a Notice of Award to KSPC for the 31 MW baseload demand under Lot 1 of the R8 JCPSP, which was acknowledged by KSPC on 20 August 2024.
- 29. On 29 August 2024, FRECOR 8 timely submitted to NEA the finalized draft PSA together with the Board Resolution and the justifications to the changes made in the PSA, for the issuance of the Notice to Execute Agreement. However, it was only on 13 September 2024 when FRECOR 8 received NEA’s Notice to Execute Agreement dated 12 September 2024.
- 30. Thus, on 13 September 2024, ESAMELCO and KSPC executed the Power Supply Agreement (PSA), commencing on the later of the two dates: (i) September 26, 2024 or (ii) immediately after the issuance by the ERC of a Provisional Authority, or

Interim Relief, or Final Authority, until 25 December 2033 with a contract capacity of 3 MW.

31. Hence, this instant *Joint Application* for the approval of the PSA between ESAMELCO and KSPC.

SALIENT FEATURES OF THE PSA

32. The PSA between ESAMELCO and KSPC contains the following salient features:

- a. **Contract Term.** This Agreement shall take effect immediately from Effective Date, and from such date, shall remain in force and effect until December 25, 2033, unless sooner terminated in accordance with this Agreement and upon approval by the ERC.
- b. **Delivery Date.** KSPC shall commence delivery of Contract Capacity to ESAMELCO on September 26, 2024 or the date of the receipt of the Seller of the ERC Provisional Authority, as may be applicable, provided, the Buyer has given its day-ahead nomination, duly received by the Seller.
- c. **Contract Capacity.** It shall mean a capacity of 3 MW reserved by KSPC for ESAMELCO for the duration of the contract period. For the avoidance of doubt, this refers to the estimated capacity of electricity to be made available for Delivery to each ESAMELCO Facility.

The Buyer shall be allowed to nominate at least 50% of the Contract Capacity per interval divided by twelve (12) on all 5-minute Trading Intervals, but at the end of the relevant billing period, the Buyer shall be obligated to pay for the product at 65% monthly minimum CUF or actual energy nominated, whichever is higher, and the Total Generation Charge. The Buyer will be billed based on Minimum Monthly CUF if, at the end of the billing period and after reconciliation, the nomination falls below the Minimum Monthly CUF for reasons other than FM. The maximum contract energy shall be proportionately adjusted to account for the undelivered energy (kWh) due to Force Majeure.

- d. **Capacity Utilization Factor.** The ratio of the amount of energy taken by ESAMELCO from KSPC during any Billing Period to the actual capacity made available by KSPC.

ESAMELCO shall purchase the Contracted Capacity and pay for the Contracted Capacity from sixty-five (65%) to one hundred percent (100%) Capacity

Utilization Factor (CUF), computed per Billing Period, in accordance with Schedule 3³ below.

- e. Outages. KSPC shall guarantee continuous supply without Scheduled and Unscheduled Outages throughout the term of this Agreement.

- f. Replacement Power. KSPC shall guarantee the availability of the Contract Capacity/Energy during the term of this PSA, except when caused by a Force Majeure event allowed hereof. Notwithstanding the Outage, whether Scheduled Outage or Unscheduled Outage, of the Cebu Power Plant utilized by KSPC in order to supply the Contract Capacity/Energy per Schedule 2, KSPC shall be responsible in securing and ensuring that the Contract Capacity and/or Contract Energy is delivered to ESAMELCO at contract price or actual price, whichever is lower. KSPC’s supply of Replacement Power shall only be to the extent of the Contract Capacity.

- g. Electricity Fees. Refers to the total amount of charges due from ESAMELCO in respect of the Contract Capacity and all Energy supplied by KSPC during a Billing Period, computed in accordance with Schedule 5⁴.

- h. Proposed Base Rate/Price and its breakdown exclusive of Value Added Tax (VAT) and other pertinent taxes:

COMPONENTS	PHP/KWH
CRF	0.9895
FOM	1.0305
VOM	0.0914
FUEL	3.1686
TOTAL	5.2800

Below is the Capitalization Utilization Factor (CUF) Price:

³ Power Supply Agreement, page 30.
⁴ Power Supply Agreement, pages 34-35.

Capacity Utilization Factor (CUF) Price

CAPACITY FEE	LOCAL (PHP/kWh)	
C.U.F.	Capital Recovery	Fixed O&M
100%	0.9895	1.0305
99%	0.9995	1.0409
98%	1.0097	1.0515
97%	1.0201	1.0624
96%	1.0307	1.0734
95%	1.0416	1.0847
94%	1.0527	1.0963
93%	1.0640	1.1081
92%	1.0755	1.1201
91%	1.0874	1.1324
90%	1.0994	1.1450
89%	1.1118	1.1579
88%	1.1244	1.1710
87%	1.1374	1.1845
86%	1.1506	1.1983
85%	1.1641	1.2124
84%	1.1780	1.2268
83%	1.1922	1.2416
82%	1.2067	1.2567
81%	1.2216	1.2722
80%	1.2369	1.2881
79%	1.2525	1.3044
78%	1.2686	1.3212
77%	1.2851	1.3383
76%	1.3020	1.3559
75%	1.3193	1.3740
74%	1.3372	1.3926
73%	1.3555	1.4116
72%	1.3743	1.4313
71%	1.3937	1.4514
70%	1.4136	1.4721
69%	1.4341	1.4935
68%	1.4551	1.5154
67%	1.4769	1.5381
66%	1.4992	1.5614
65%	1.5223	1.5854

33. ESAMELCO simulated a rate impact analysis based on assumed quantities. The indicative rate impact on its overall generation rate with and without supply from KSPC under the PSA are as follows:

ESAMELCO’s Generation Rate (Php/kWh)		
WithKSPC PSA	Without KSPC PSA	Rate Impact
6.2462	6.4883	(0.2421)

34. As shown in the rate impact analysis, the implementation of the PSA between ESAMELCO and KSPC will benefit the electric cooperative and its consumers with an estimated generation rate reduction of Php 0.2421/kWh. Thus, the PSA

subject of this *Joint Application* will ultimately provide ESAMELCO’s end-users with a continuous and reliable supply of electricity at affordable rates. A copy of the Rate Impact Simulation 2024 is hereto attached as *Annex “GG”*.

- 35. Environmental Compliance Certificate (ECC). On 10 September 2007, the Department of Environment and Natural Resources (DENR) has issued ECC Transfer of Ownership in favor of KSPC with ECC No. 0511- 013- 206. A copy of the ECC is hereto attached as *Annex “R”*.
- 36. Certificate of Compliance. The Honorable Commission has issued the Certificate of Compliance (“COC”) with COC no. 24-03-M-00068V dated 26 March 2024, for KSPC’s power plants. A copy of the COC is attached as *Annex “S”*.
- 37. Certificate of Endorsement. The DOE has issued a Certificate of Endorsement with No. 2022- 04-160 dated 19 April 2022 for KSPC’s plant in barangay Colon, Naga City, Cebu, certifying that the Plant is consistent with the Power Development Plan of the Government. A copy of the Certificate of endorsement is hereto attached as *Annex “T”*.
- 38. As further support to the instant Joint Application, the Applicants most respectfully submit to the Honorable Commission the following documents in accordance with the Pre-filing Checklist in Resolution No. 38, Series of 2006⁵, Rule 20 B Section 2 of the ERC Rules of Practice and Procedures:

ANNEX	DOCUMENTS/ INFORMATION
D	ESAMELCO Verified Certification showing list of Board of Directors
E	ESAMELCO DSM Certification
F	ESAMELCO Write Up NPC
K	ESAMELCO WESM Membership
L	PSA Executive Summary
M	KSPC NWRB Water Permit
N	KSPC Articles of Incorporation
N-1	KSPC By- Laws

⁵ Resolution No. 38, Series of 2006 – A Resolution Promulgating the Energy Regulatory Commission’s Rules of Practice and Procedure.

ANNEX	DOCUMENTS/ INFORMATION
O	KSPC Verified Certification showing list of Board of Directors
P	KSPC General Information Sheet
Q	<p>WRITE UP FOR NON-APPLICABILITY OF DOCUMENTS (KSPC):</p> <ul style="list-style-type: none"> Renewable Energy Service Contract Certificate of Registration or Certification of Commerciality by an RE Developer and after due confirmation by the DOE Requirements under emergency procurement BIR Receipts Seller’s Receipts Purchase Orders with Annotation of Acceptance or Transfers Deeds of Sale and other Other [sic] Forms of Conveyance of Ownership Potential Cost (absolute amounts and PhP/kWh) of Ancillary Services as and when the IPP or the DU is connected to the main grid. Basis/rationale/derivation of Other Charges such as replacement, start-up, pre-commercial, and ancillary costs. Distribution Wheeling Service Agreement
Q-1	BOI Letter of Cancellation
Q-2	KSPC Bank Certificate
U	KSPC Transmission Service Agreement with NGCP
V	*KSPC Narrative Sources of Funds
W	*KSPC Derivation of Rates
X	*KSPC’s Financial Model
Y	Sample Power Bill
Z	*KSPC All relevant technical and economic characteristics of generation capacity
AA	*KSPC’s 2023 Audited Financial Statements (AFS), Balance Sheet, Income Statement, and Statement of cash Flows
BB	KSPC Shareholders Agreement

ANNEX	DOCUMENTS/ INFORMATION
CC	*Certifications of Net Heat Rate
DD	*Fuel Contract
EE	*Sworn Statement on Fuel Procurement
FF	KSPC’s WESM Registration Approval Form
GG	ESAMELCO Rate Impact
HH	ESAMELCO Transmission Supply Agreement
II	PSPP
II-1	DDP
JJ	MEOT Simulation
RR	ESAMELCO Certificate of Email Registration
SS	KSPC Certificate of Email Registration

**Subject to the Motion For Confidential Treatment of Information*

ALLEGATIONS IN SUPPORT OF THE MOTION FOR
CONFIDENTIAL TREATMENT OF INFORMATION

39. Section 1, Rule 4, of the ERC Revised Rules of Practice and Procedure provides that a party to a proceeding before the Honorable Commission may move for information to be treated as confidential.
40. KSPC prays that the information contained in the documents attached as *Annexes “V”, “W”, “X”, “Z”, “AA”, “CC”, “DD”, and “EE”* be treated as confidential and that the same be continuously protected from public disclosure, except to the officers and staff of the Honorable Commission. In particular, these are the documents for which confidential treatment is sought as they contain trade secrets and/or commercially-sensitive data about KSPC’s plant operations and pricing strategies:

ANNEX	DOCUMENT
V	Narrative on Sources of Funds
W	Derivation of Rates (Excel File)
X	KSPC’s Financial Model

ANNEX	DOCUMENT
Z	Relevant technical and economic characteristics of generation capacity
AA	KSPC’s 2022 Audited Financial Statements (AFS), Balance Sheet, Income Statement, and Statement of cash Flows
CC	Certifications of Net Heat Rate
DD	Fuel Contract
EE	Sworn Statement on Fuel Procurement

41. Furthermore, KSPC prays that the detailed discussion on rate and its pertinent information thereto are specifically stated in Annex V - Narrative on Sources of Funds, Generation Rates, Cash Flow, which are subject to the Motion for Confidential Treatment of Information.
42. Co-applicant KSPC posits that the foregoing annexes contain financial models, computation/calculation for rate determination and cost components. Hence, KSPC has actual and valuable proprietary interest to protect such information and data, which fall within the bounds of “trade secrets” that are entitled to protection under the Constitution, statutes, and rules and regulations of this Honorable Commission.
43. The foregoing annexes contain non-public, proprietary information and data involving Applicants’ investments, business operations, and financial calculations. Applicants determine, among others, their competitive rates through its power rate calculations, and its financial model through this information. Thus, the methodology thereof is privileged and confidential in nature.
44. This information and data are not generally available to the public. Hence, KSPC will be at undue disadvantage and its competitiveness will seriously be prejudiced if this information is unduly disclosed.

ALLEGATIONS IN SUPPORT OF THE MOTION FOR
PROVISIONAL AUTHORITY

45. ESAMELCO and KSPC replead, by reference, all the foregoing allegations.
46. ESAMELCO and KSPC pray for the issuance of a provisional authority prior to final decision pursuant to *Section 1, Rule 14* of the *ERC Revised Rules of Practice and Procedure*, which provides:

Section 1. Provisional Authority or Interim Relief. – For applications or petitions covered by Section 1, Rule 6 of these Rules, the Commission may grant either a provisional authority or an interim relief, upon motion included in the application or petition and indicated in the caption thereof that such relief is requested x x x.

47. As shown in the ESAMELCO's Supply and Demand Scenario, the peak demand ranges from 23.50 to 32.88 MW and our existing contract capacity is 15 MW which is an Emergency Power Supply Agreement (EPSA) with FDC Misamis Corporation (FDCMPC) and Taft Hydro Energy Corporation (THEC) which will expire on 25 September 2024. If no provisional authority or interim relief will be issued, the total demand of 15 MW will be exposed to the market having erratic power rates, to the prejudice of the consumers. Thus, the issuance of the provisional authority or interim relief is in the best interest of the electricity consumers, especially the captive customers, as it ensures continuous and reliable electricity service, with stable rate, which is essential for public welfare, economic stability and growth.
48. Furthermore, from ESAMELCO's rate impact simulation, it is clear that the implementation of the PSA with KSPC would reduce ESAMELCO's rate by Php 0.2421/kWh, as compared to if the same power requirements are purchased from the Wholesale Electricity Spot Market (WESM).
49. As such, the early implementation of the PSA with TLI [sic] would benefit ESAMELCO and its end-users as it will ensure the provision of reliable, secure, and quality supply of electricity in the least cost manner.
50. In view of the foregoing, there is a need for the issuance of a Provisional Authority in the meantime that this Joint Application is still pending evaluation and resolution of Honorable Commission, for the immediate implementation of this PSA for the benefit of ESAMELCO's member consumers.
51. To support the prayer for provisional authority or interim relief, an Affidavit of Merit is hereto attached as *Annex "TT"*.

PRAYER

WHEREFORE, the foregoing premises considered, it is respectfully prayed that this Honorable Commission:

1. Give due course to the instant application especially on the proposed base rate or price as explicitly mentioned above.
2. Issue an Order:
 - a. Treating the Confidential Documents and the information contained therein as confidential

- b. Directing their non-disclosure pursuant to Rule 4 of the ERC Rules, and
 - c. Prescribing guidelines for the protection of the said documents.
3. Upon initial review of this Application and pending hearing on the merits, issue an Order provisionally approving the PSA between ESAMELCO and KSPC, thereby authorizing KSPC to charge and collect from ESAMELCO electricity fees based on rates that this Honorable Commission may provisionally approve, and authorizing ESAMELCO to pass the full amount thereof to its customers; and
4. After trial on the merits, issue a Decision approving the PSA, thereby confirming the compliance by ESAMELCO and KSPC to the rules governing power supply, and further confirming the effective rate charged, collected, and paid in connection with this PSA.
5. To authorize KSPC to charge and collect from ESAMELCO the electricity fees based on the final rates approved by this Honorable Commission, and to authorize ESAMELCO to pass the full amount thereof to its customers.

Other relief and remedies consistent with law, justice, and equity are likewise prayed for.

Finding the said *Joint Application* to be sufficient in form and with the required fees having been paid, the Commission hereby sets the same for hearing for determination of compliance with the jurisdictional requirements, expository presentation, Pre-Trial Conference and presentation of evidence on the following dates and online platform for the conduct thereof, pursuant to Resolution No. 09, Series of 2020⁶ and Resolution No. 01, Series of 2021⁷ (ERC Revised Rules of Practice and Procedure):

Date and Time	Platform	Activity
23 May 2025 (Friday) at nine o'clock in the morning (9:00 A.M.)	MS Teams Application	Jurisdictional Compliance and Expository Presentation

⁶ A Resolution Adopting the Guidelines Governing Electronic Applications, Filings and Virtual Hearings Before the Energy Regulatory Commission.

⁷ A Resolution Adopting the Revised Rules of Practice and Procedure of the Energy Regulatory Commission.

Date and Time	Platform	Activity
30 May 2025 (Friday) at nine o'clock in the morning (9:00 A.M.)		Pre-trial Conference and Presentation of Evidence

Accordingly, ESAMELCO and KSPC are hereby directed to mirror the virtual hearings to be hosted by the Commission at **ESAMELCO’s principal office located at Barangay Cabong, Borongan City, Eastern Samar**, as the designated venue for the conduct thereof and ensure that the same is open to the public. Moreover, ESAMELCO and KSPC shall guarantee that, during the conduct of the expository presentation, the participation of the public shall not be impaired.

RELATIVE THERETO, ESAMELCO and KSPC are hereby directed to:

- 1) Cause the publication of the attached *Notice of Virtual Hearing* in two (2) newspapers of nationwide circulation in the Philippines at its own expense twice (2x) within two (2) successive weeks, the dates of publication not being less than seven (7) days apart, and the date of the last publication to be made not later than ten (10) days before the date of the scheduled initial virtual hearing;
- 2) Furnish with copies of this *Order* and the attached *Notice of Virtual Hearing* the Offices of the Governor, the Mayors, and their respective Local Government Unit (LGU) legislative bodies within ESAMELCO’s franchise area for the appropriate posting thereof on their respective bulletin boards;
- 3) Inform the consumers within ESAMELCO’s franchise area, by any other means available and appropriate, of the filing of the *Joint Application*, their reasons therefor, and of the scheduled virtual hearings thereon;
- 4) Furnish with copies of this *Order* and the attached *Notice of Virtual Hearing*, the Office of the Solicitor General (OSG), the Commission on Audit (COA), and the Committees on Energy of both Houses of Congress. They are hereby requested, if they so desire, to send their duly

authorized representatives and attend the scheduled hearings; and

- 5) Furnish with copies of the *Joint Application* and its attachments, except those subject of a motion for confidential treatment of information, all those making requests therefor, subject to reimbursement of reasonable photocopying costs.

Within five (5) calendar days prior to the date of the initial virtual hearing, ESAMELCO and KSPC must submit to the Commission via electronic mail (e-mail) at docket@erc.ph, and copy furnish the Legal Service through legal@erc.ph, the scanned copies of their written compliance with the aforementioned jurisdictional requirements, attaching the following methodically arranged and duly marked documents:

- 1) The evidence of publication of the attached *Notice of Virtual Hearing* consisting of affidavits of the Editors or Business Managers of the newspapers where the said *Notice of Virtual Hearing* was published, and the complete issues of the said newspapers;
- 2) The evidence of actual posting of this *Order* and the attached *Notice of Virtual Hearing* consisting of certifications issued to that effect, signed by the aforementioned Governor, Mayors and LGU legislative bodies or their duly authorized representatives, bearing the seals of their offices;
- 3) The evidence of other means employed by ESAMELCO to inform the consumers within ESAMELCO's franchise area of the filing of the *Joint Application*, their reasons therefor, and of the scheduled hearings thereon;
- 4) The evidence of receipt of copies of this *Order* and the attached *Notice of Virtual Hearing* by the OSG, the COA, and the Committees on Energy of both Houses of Congress;
- 5) The evidence of receipt of copies of the *Joint Application* and its attachments, except those subject of a motion for confidential treatment of information, if any, by all those making requests therefor; and

- 6) Such other proof of compliance with the requirements of the Commission.

Moreover, ESAMELCO and KSPC are hereby required to post on their bulletin boards, the scanned copies of the foregoing jurisdictional requirements, together with the newspaper publications and certifications issued by the concerned Offices of the Governor, Mayors and Local Legislative Bodies, and to submit proof of posting thereof.

Applicants ESAMELCO and KSPC, and all interested parties are also required to submit via e-mail at doCKET@erc.ph, and copy furnish the Legal Service through legal@erc.ph, **at least five (5) calendar days** before the date of the scheduled virtual hearing and Pre-trial Conference, their respective Pre-Trial Briefs containing, among others:

- 1) A summary of admitted facts and proposed stipulation of facts;
- 2) The issues to be tried or resolved;
- 3) The documents or exhibits to be presented, stating the purposes and proposed markings thereof, which should also be attached to the Pre-Trial Brief; and
- 4) The number and names of the witnesses, with their written testimonies in a Judicial Affidavit from attached to the Pre-Trial Brief.

Applicants ESAMELCO and KSPC must ensure that all the documents or exhibits proposed to be presented have already been duly submitted to the Commission **at least five (5) calendar days** before the date of the scheduled virtual hearing and Pre-trial Conference pursuant to the preceding paragraph.

Failure of ESAMELCO and KSPC to comply with the above requirements within the prescribed period shall be a ground for cancellation of the scheduled hearings.

Applicants ESAMELCO and KSPC must also be prepared to make an expository presentation of the instant *Joint Application*, aided by whatever communication medium that they may deem appropriate for the purpose, in order to put in plain words and explain, for the benefit of the consumers and other concerned parties, the

nature of the *Joint Application*. Relevant information and pertinent details substantiating the reasons and justifications for the *Joint Application* must be cited in support thereof.

Applicants ESAMELCO and KSPC are hereby directed to file a copy of their Expository Presentation via e-mail at docket@erc.ph, copy furnish the Legal Service through legal@erc.ph, **at least five (5) calendar days** prior to the scheduled virtual hearing. ESAMELCO and KSPC shall also be required, upon the request of any stakeholder, to provide an advance copy of their Expository Presentation, **at least five (5) calendar days** prior to the scheduled virtual hearing.


Applicants ESAMELCO and KSPC are hereby directed to submit, through personal service, registered mail or ordinary mail/private courier, one (1) set of the original or certified true hard copies of their Jurisdictional Compliance, Expository Presentation, Pre-Trial Brief, Judicial Affidavits of witnesses, **within five (5) working days** from the date that the same were electronically submitted, as reflected in the acknowledgement receipt e-mail sent by the Commission.

Finally, ESAMELCO and KSPC, including their authorized representatives and witnesses, are hereby directed to provide the Commission, through legal.virtualhearings@erc.ph, their respective e-mail addresses upon receipt of this *Order*. The Commission will send the access link/s to the aforementioned hearing platform within five (5) working days prior to the scheduled hearing.

SO ORDERED.

Pasig City, 27 February 2025.

FOR AND BY AUTHORITY OF THE
COMMISSION:


ATTY. KRISHA MARIE T. BUELA
Director III, Legal Service

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- 14. Office of the Municipal Mayor
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- 15. Office of the Sangguniang Bayan
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- 16. Office of the Municipal Mayor
Balangiga, Eastern Samar
- 17. Office of the Sangguniang Bayan
Balangiga, Eastern Samar
- 18. Office of the Municipal Mayor
Balangkayan, Eastern Samar
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Can-avid, Eastern Samar
- 22. Office of the Municipal Mayor
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- 23. Office of the Sangguniang Bayan
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- 24. Office of the Municipal Mayor
Gen. McArthur, Eastern Samar
- 25. Office of the Sangguniang Bayan
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- 28. Office of the Municipal Mayor
Guiuan, Eastern Samar
- 29. Office of the Sangguniang Bayan
Guiuan, Eastern Samar
- 30. Office of the Municipal Mayor
Hernani, Eastern Samar
- 31. Office of the Sangguniang Bayan
Hernani, Eastern Samar
- 32. Office of the Municipal Mayor
Jipapad, Eastern Samar
- 33. Office of the Sangguniang Bayan
Jipapad, Eastern Samar

- 34. Office of the Municipal Mayor
Lawaan, Eastern Samar
- 35. Office of the Sangguniang Bayan
Lawaan, Eastern Samar
- 36. Office of the Municipal Mayor
Llorente, Eastern Samar
- 37. Office of the Sangguniang Bayan
Llorente, Eastern Samar
- 38. Office of the Municipal Mayor
Maslog, Eastern Samar
- 39. Office of the Sangguniang Bayan
Maslog, Eastern Samar
- 40. Office of the Municipal Mayor
Maydolong, Eastern Samar
- 41. Office of the Sangguniang Bayan
Maydolong, Eastern Samar
- 42. Office of the Municipal Mayor
Mercedes, Eastern Samar
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- 49. Office of the Sangguniang Bayan
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- 51. Office of the Sangguniang Bayan
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